

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

PROGRESSIVE BUYERS & SELLERS, LLC and JULIE CARPER,)	
)	
)	
Plaintiffs,)	4:09CV3232
)	
vs.)	
)	ORDER AND
COLDWELL BANKER TOWN & COUNTRY REALTY OF KEARNEY, LLC, et al.,)	
)	RECOMMENDATION
)	
Defendants.)	

On August 2, 2010, hearing was held on the motion to withdraw as plaintiffs' counsel (#120) filed by David Sigale and the discovery motion (#126) filed by the Buffalo County Board of Realtors. Mr. Sigale served copies of both motions, together with notice of the August 2, 2010 hearing, on Julie Carper and on Progressive Buyers & Sellers, LLC. Plaintiff, Julie Carper, was ordered to attend the hearing but failed to appear. Mr. Sigale requested on the record that the plaintiffs be given additional time in which to retain substitute counsel.

Ms. Carper did not file any response to the motion to withdraw, and substitute counsel did not enter an appearance on behalf of Progressive Buyers & Sellers, LLC. Plaintiffs were previously advised (see #121) that the claims asserted by Progressive Buyers & Sellers, LLC may be dismissed for failure to prosecute, pursuant to Fed. R. Civ. P. 41(b), if it is not represented by counsel.

The court finds that Mr. Sigale should be granted leave to withdraw. Ms. Carper may represent herself in this action and will be deemed to be proceeding without the assistance of counsel. Since Progressive Buyers & Sellers, LLC must be represented by counsel in this court, I will recommend that its claims be dismissed without prejudice because it is no longer represented by counsel.

IT IS ORDERED:

1. The Motion of David G. Sigale for leave to withdraw as counsel for Progressive Buyers & Sellers, LLC and Julie Carper (#120) is granted.

2. Plaintiff, Julie Carper, is deemed to be proceeding pro se, that is, without the assistance of counsel. Ms. Carper may retain substitute counsel at any time; however, until such time as substitute counsel enters a written appearance, Ms. Carper shall personally comply with all orders of this court, the Federal Rules of Civil Procedure, and the Local Rules of Practice. Failure to comply with these requirements may result in the imposition of sanctions, including payment of costs and attorney's fees and/or dismissal of the action, pursuant to Rule 37 of the Federal Rules of Civil Procedure.

3. Ms. Carper is given until and including **Monday, August 16, 2010** to file and serve a written response to Buffalo County Board of Realtors' "Rule 37 Motion for Relief from Violation of Discovery Order, or in the Alternative, to Compel Rule 26(a)(1) Disclosures and Discovery Responses" (#126), together with a "Certificate of Service" stating the date a true and correct copy of the response was mailed to opposing counsel. Counsel for the Buffalo County Board of Realtors shall file a status report no later than **Friday, August 20, 2010**, advising whether Ms. Carper has complied with this paragraph.

4. The Clerk of the Court shall mail a copy of this Order and Recommendation to Julie Carper and to Progressive Buyers & Sellers, LLC, at the addresses designated in Mr. Sigale's Certificate of Service (#130).

IT IS RECOMMENDED to District Judge Laurie Smith Camp that all claims asserted by Progressive Buyers & Sellers, LLC be dismissed without prejudice for failure to prosecute, pursuant to Fed. R. Civ. P. 41(b) and NECivR 41.2, because it is no longer represented by counsel. This recommendation will be withdrawn if substitute counsel files a written entry of appearance on behalf of Progressive Buyers & Sellers, LLC on or before **August 16, 2010**.

DATED August 2, 2010.

BY THE COURT:

**s/ F.A. Gossett
United States Magistrate Judge**